

Page 1

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 18-23538-shl

4 - - - - - x

5 In the Matter of:

6

7 SEARS HOLDINGS CORPORATION,

8

9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 November 17, 2022

17 2:05 PM

18

19

20

21 B E F O R E :

22 HON SEAN H. LANE

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: UNKNOWN

1 HEARING re OMNIBUS HEARING

2
3 HEARING re Doc. #10144 Application For Interim Professional
4 Compensation / Third Application For Interim Professional
5 Compensation for ASK LLP As Special Counsel, Period:
6 7/1/2021 To 10/31/2021, Fee: \$3,592.50, Expenses: \$5,502.80.

7
8 HEARING re Doc. #10667 Application For Final Professional
9 Compensation / Final Fee Application of Stout Risius Ross,
10 LLC Real Estate Consultant and Advisor For the Debtors For
11 the Period From November 21, 2018 Through and Including June
12 30, 2019 for Stout Risius Ross, LLC, Consultant, period:
13 11/21/2018 to 6/30/2019, fee: \$192,695.50, expenses:
14 \$6,960.60.

15
16
17
18
19
20
21
22
23
24
25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 PAUL, WEISS, RIFKIND, WHARTON GARRISON LLP

4 Attorneys for the Debtor

5 1285 Avenue of the Americas

6 New York, NY 10019

7

8 BY: ROBERT BRITTON

9

10 ASK LLP

11 Attorneys for the Debtor

12 2600 Eagan Woods Drive, Suite 400

13 St. Paul, MN 55121

14

15 BY: KARA E. CASTEEL

16

17 STOUT RISIUS ROSS

18 150 West Second Street, Suite 400

19 Royal Oak, MI 20005

20

21 BY: KEVIN KERNEN

22

23 ALSO PRESENT TELEPHONICALLY:

24 ERIKA L. MORABITO

25 JOSEPH SZYDIO

1 P R O C E E D I N G S

2 THE COURT: Good afternoon. This is Judge Sean
3 Lane in the United State Bankruptcy Court for the Southern
4 District of New York, and we are here for a 2:00 hearing in
5 the Sears Holding Corporation Chapter 11 jointly-
6 administered case. And so let me find out who is here on
7 behalf of the Debtors.

8 Mr. Britton, I think you're on mute. You're still
9 on mute. You're not muted on our system. And I would love
10 to be able to tell you I had wisdom to offer on how to fix
11 your problem, but I would be lying if I did.

12 MR. BRITTON: Can you hear me now, Your Honor?

13 THE COURT: There you go.

14 MR. BRITTON: Excellent. Technological issues on
15 our end. Your Honor, Bob Britton, Paul Weiss, on behalf of
16 the former restructuring subcommittee of the Debtors.

17 THE COURT: All right, good afternoon. And on
18 behalf of ASK?

19 MS. CASTEEL: Good afternoon, Your Honor. This is
20 Kara Casteel of ASK for the litigation designees, or former
21 litigation designees.

22 THE COURT: All right. And on behalf of Stout?

23 MR. KERNEN: Good afternoon, Your Honor. Kevin
24 Kernnen with Stout Risius Ross.

25 THE COURT: All right. Good afternoon to you.

1 And let me ask if there are any other appearances this
2 afternoon.

3 MR. BRITTON: For clarification purposes, Your
4 Honor, Stout submitted its application as a professional of
5 the restructuring subcommittee. I will present their
6 application today.

7 THE COURT: All right. Thank you. So I have the
8 notice of agenda and then I have the revised notice of
9 agenda. So I think I'm working off the notice of agenda
10 that was filed on the 16th at midday and at Docket 10732.
11 And so with that, I'll turn it over to the liquidating
12 trustee to -- counsel for the liquidating trustee to walk us
13 through what's on.

14 MS. CASTEEL: Your Honor, would you like me so
15 discuss the ASK application?

16 THE COURT: I will leave it to your considered
17 professional judgment as to who should tackle what. So...

18 MS. CASTEEL: Well, Your Honor, I'm happy to
19 start. I figured this status conference might be where you
20 were hoping to catch up and figure out what's going on and
21 what's left with what ASK is doing. So I'm happy to fill
22 you in. This is basically some cleanup.

23 ASK was hired in two different capacities. We
24 have been (indiscernible) and are continuing to do
25 preference work now that the plan has gone effective. We

1 still are prosecuting preferences and are working on a final
2 fee app for that. That is separate and apart from the
3 hourly work we did. I would say -- I guess we would be
4 called efficiency counsel in the shareholder litigation.
5 Akin Gump did the insider action and ASK was hired to do the
6 public shareholder portion of that. And so because it
7 wasn't really clear if the insiders were going to settle and
8 the public shareholders would remain or if everything was
9 going to be wrapped up shortly after October, we didn't
10 submit our final fee app yet. We are working on that now.

11 The vast majority of our work and fees were
12 already incurred and taken care of in 2020 and 2021. We had
13 first and second interim fee apps and the fees there totaled
14 approximately \$214,000. Those have already been approved.
15 We filed our third interim last year. And when preparing
16 for the final realized we had inadvertently forgotten to
17 file C&O on the third. So we have our third interim filed,
18 which you set for this hearing. We filed the C&O, and out
19 of the total \$225,000 in fees we incurred, this third
20 interim is approximately \$3,500, and the fourth and final,
21 which we also filed, is approximately \$7,600 in fees.

22 So we're done, we're wrapped up. All the public
23 shareholders have either had a stipulated dismissal or a
24 notice of dismissal. We will get that final fee app
25 shortly. But the third and fourth interim were essentially

1 just cleaning up the small things we were doing while the
2 motions to dismiss were under advisement and the insider
3 parties were working on meditation. There wasn't
4 significant work.

5 But other than the final fee app, the third and
6 fourth ones are the final, and you won't be getting ongoing
7 work from us.

8 THE COURT: All right. And I know that your firm
9 has been doing preference work, and I think, frankly, from
10 the point of view of receiving information, particularly on
11 things like defaults, that's gone very smoothly. I think my
12 chambers had the pleasure of working with folks at ASK way
13 back when in the Québecor case I think. When I first got on
14 the bench, I inherited some 1,600 adversaries. And so I
15 think you have a system that seems to be a pretty well-oiled
16 machine, so thank you for that. I know because judges I
17 suspect have slightly different things that they do on that.
18 So I appreciate the fact that it's so smooth and no doubt
19 you can offer assistance to other folks who may not have the
20 background that you all have in terms of that stuff. So,
21 thank you for that.

22 So I know that's listed as a status. Right? So,
23 Mr. Britton, I don't know if there's anything that you
24 wanted to address vis-à-vis status either on the fee matter,
25 which is listed as status, or anything else for that matter.

1 You're on mute again.

2 MR. BRITTON: Can you hear me now, Your Honor?

3 THE COURT: I can hear you now, yes.

4 MR. BRITTON: Okay, great. Nothing on Ask, Your
5 Honor. We could present Stout's final fee application for
6 approval if we're going to move to --

7 THE COURT: All right. Well, while I have you on
8 the phone though, or on Zoom, maybe you could just give me
9 an overview of the case. I think I know where things stand
10 in light of all the work that was done with Judge Drain
11 through the end of the summer, but I don't want to run afoul
12 of sort of institutional arrogance and think I know what's
13 left without asking the people who actually do know. So I
14 thought maybe if you had a sense or two on that, just
15 generally speaking.

16 MR. BRITTON: So I don't, Your Honor. Maybe it
17 would be a help just to frame what our role in the case is
18 or was at one point in time and where we are today. I don't
19 know if anybody from Weil Gotshal is on the line, but they
20 might be better-equipped to give that update.

21 So the Debtors were represented by Weil Gotshal,
22 you know, in their entirety. At the time of the filing, a
23 restructuring subcommittee made up of independent, newly-
24 appointed board members was created for the specific
25 purposes of, one, negotiating on behalf of the Debtors, the

1 sale that was ultimately made to ESL. And then two,
2 investigating and pursuing any claims that the Debtors may
3 have had against ESL, Mr. Lampert, other individuals,
4 insiders.

5 Stout was an estate professional engaged by that
6 restructuring subcommittee along with Paul Weiss and others
7 to pursue that investigation, the ultimate output of which
8 was the first complaint against ESL and others that was
9 filed in these cases.

10 At the time of confirmation of the plan, the
11 litigation trust was formed. This is going back several
12 years to 2019. The litigation trust was formed, and at that
13 point Akin took over the litigation and the work of the
14 restructuring subcommittee for all intents and purposes was
15 over. So we have not been actively involved in the cases
16 since 2019. I am here only to clean up the final fee
17 application on behalf of Stout, which is still open. But in
18 order to give (indiscernible) update on where the cases are
19 post-closing and post-settlement, I think we would need Weil
20 Gotshal.

21 THE COURT: All right. That's fine. All right.
22 Thank you very much.

23 So if you -- is there anything else to do on ASK
24 at the moment, or should we move on to the Stout final fee
25 application? All right, let's move on to the final fee

1 application of Stout.

2 MR. BRITTON: Okay, Your Honor. The final fee
3 application of Stout is on file at ECF 10667. No objections
4 were filed. The total amount being sought for final
5 approval is \$199,656.10. This relates to two prior interim
6 fee applications which were approved for the period covering
7 November 2018 through June 2019, which is the period during
8 which Stout's work was performed.

9 We're not seeking any new payments. All this
10 money has already been pursuant to those interim fee
11 applications. We're just seeking final approval at this
12 time pursuant to the final application.

13 THE COURT: All right. Anything from Stout?

14 MR. KERNEN: Nothing further, Your Honor.

15 THE COURT: All right. Thank you very much.

16 I'm happy to approve the final fee application of
17 Stout, which, as noted, is approval of monies that have
18 already been paid, and the amounts set forth in the final
19 fee application and for the services, the real estate
20 consulting services that are summarized in the application,
21 and I find it appropriate as a matter of the facts and
22 circumstances of the case and applicable law, and I rely on
23 the information that's been provided in terms of the backup
24 as well as the certification of Mr. Kernan in connection
25 with those services. So that is granted.

Page 11

1 And with that, I guess the only other question I
2 had is I just wanted to confirm. I think we now have moved
3 everything in the case. The next hearing I think is either
4 on the 20th or 21st, and the hearing that was scheduled
5 before that I think has been -- those matters have been
6 moved. Is that right?

7 MR. BRITTON: I believe that's correct, Your
8 Honor, but that's, again, I think a question for Weil
9 Gotshal.

10 THE COURT: No, that's fair. And no worries.
11 With that, anything else that needs to be addressed here
12 this afternoon?

13 MS. CASTEEL: No, Your Honor. Just to give you a
14 heads up, we should be getting the final fee app for both
15 shareholder litigation and the preferences within the next
16 two weeks, and so hopefully that's the last time you'll have
17 to address any lingering fees from us.

18 THE COURT: All right. Thank you very much for
19 the update. And with that, all of you be well, happy
20 Thanksgiving to you all, and see you in December. Thank
21 you.

22 (Whereupon these proceedings were concluded)
23
24
25

Page 12

I N D E X

RULINGS

Page

Line

Final Fee Application of Stout Approved

10

16

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: November 18, 2022

[1,600 - clarification]

Page 1

1	2:05 1:17	akin 6:5 9:13	backup 10:23
1,600 7:14	3	americas 3:5	bankruptcy 1:1
10 12:6	3,500 6:20	amount 10:4	1:12,23 4:3
10/31/2021 2:6	3,592.50 2:6	amounts 10:18	basically 5:22
10019 3:6	30 2:12	anybody 8:19	behalf 4:7,15,18
10144 2:3	300 1:13 13:22	apart 6:2	4:22 8:25 9:17
10601 1:14	330 13:21	app 6:2,10,24	believe 11:7
10667 2:8 10:3	4	7:5 11:14	bench 7:14
10732 5:10	400 3:12,18	appearances 5:1	better 8:20
11 4:5	5	applicable 10:22	board 8:24
11/21/2018 2:13	5,502.80. 2:6	application 2:3	bob 4:15
11501 13:23	55121 3:13	2:4,8,9 5:4,6,15	britton 3:8 4:8
12151 13:7	6	8:5 9:17,25 10:1	4:12,14,15 5:3
1285 3:5	6,960.60. 2:14	10:3,12,16,19	7:23 8:2,4,16
150 3:18	6/30/2019 2:13	10:20 12:6	10:2 11:7
16 12:6	7	applications	c
16th 5:10	7,600 6:21	10:6,11	c 3:1 4:1 13:1,1
17 1:16	7/1/2021 2:6	appointed 8:24	c&o 6:17,18
18 13:25	a	appreciate 7:18	called 6:4
18-23538 1:3	able 4:10	appropriate	capacities 5:23
192,695.50 2:13	accurate 13:4	10:21	care 6:12
199,656.10. 10:5	action 6:5	approval 8:6	case 1:3 4:6 7:13
2	actively 9:15	10:5,11,17	8:9,17 10:22
20005 3:19	address 7:24	approve 10:16	11:3
2018 2:11 10:7	11:17	approved 6:14	cases 9:9,15,18
2019 2:12 9:12	addressed 11:11	10:6 12:6	casteel 3:15 4:19
9:16 10:7	administered	approximately	4:20 5:14,18
2020 6:12	4:6	6:14,20,21	11:13
2021 6:12	adversaries 7:14	apps 6:13	catch 5:20
2022 1:16 13:25	advisement 7:2	arrogance 8:12	certification
20th 11:4	advisor 2:10	asking 8:13	10:24
21 2:11	afoul 8:11	assistance 7:19	certified 13:3
214,000 6:14	afternoon 4:2	attorneys 3:4,11	chambers 7:12
21st 11:4	4:17,19,23,25	avenue 3:5	chapter 4:5
225,000 6:19	5:2 11:12	b	circumstances
248 1:13	agenda 5:8,9,9	b 1:21	10:22
2600 3:12		back 7:13 9:11	claims 9:2
2:00 4:4		background	clarification 5:3
		7:20	

[clean - hearing]

Page 2

clean 9:16 cleaning 7:1 cleanup 5:22 clear 6:7 closing 9:19 compensation 2:4,5,9 complaint 9:8 concluded 11:22 conference 5:19 confirm 11:2 confirmation 9:10 connection 10:24 considered 5:16 consultant 2:10 2:12 consulting 10:20 continuing 5:24 corporation 1:7 4:5 correct 11:7 counsel 2:5 5:12 6:4 country 13:21 court 1:1,12 4:2 4:3,13,17,22,25 5:7,16 7:8 8:3,7 9:21 10:13,15 11:10,18 covering 10:6 created 8:24	debtors 2:10 4:7 4:16 8:21,25 9:2 december 11:20 defaults 7:11 designees 4:20 4:21 didn't 6:9 different 5:23 7:17 discuss 5:15 dismiss 7:2 dismissal 6:23 6:24 district 1:2 4:4 doc 2:3,8 docket 5:10 doing 5:21 7:1,9 don't 7:23 8:11 8:16,18 doubt 7:18 drain 8:10 drive 3:12	essentially 6:25 estate 2:10 9:5 10:19 excellent 4:14 expenses 2:6,13 f f 1:21 13:1 fact 7:18 facts 10:21 fair 11:10 fee 2:6,9,13 6:2 6:10,13,24 7:5 7:24 8:5 9:16,24 9:25 10:2,6,10 10:16,19 11:14 12:6 fees 6:11,13,19 6:21 11:17 figure 5:20 figured 5:19 file 6:17 10:3 filed 5:10 6:15 6:17,18,21 9:9 10:4 filing 8:22 fill 5:21 final 2:8,9 6:1 6:10,16,20,24 7:5,6 8:5 9:16 9:24,25 10:2,4 10:11,12,16,18 11:14 12:6 find 4:6 10:21 fine 9:21 firm 7:8 first 6:13 7:13 9:8 fix 4:10	folks 7:12,19 foregoing 13:3 forgotten 6:16 formed 9:11,12 former 4:16,20 forth 10:18 fourth 6:20,25 7:6 frame 8:17 frankly 7:9 further 10:14 g g 4:1 garrison 3:3 generally 8:15 getting 7:6 11:14 give 8:8,20 9:18 11:13 go 4:13 going 5:20 6:7,9 8:6 9:11 good 4:2,17,19 4:23,25 gotshal 8:19,21 9:20 11:9 granted 10:25 great 8:4 guess 6:3 11:1 gump 6:5 h h 1:22 happy 5:18,21 10:16 11:19 heads 11:14 hear 4:12 8:2,3 hearing 2:1,1,3 2:8 4:4 6:18 11:3,4
---	--	---	---

[help - period]

Page 3

help 8:17 hired 5:23 6:5 holding 4:5 holdings 1:7 hon 1:22 honor 4:12,15 4:19,23 5:4,14 5:18 8:2,5,16 10:2,14 11:8,13 hopefully 11:16 hoping 5:20 hourly 6:3 hyde 2:25 13:3,8	involved 9:15 issues 4:14 it's 7:18 i'll 5:11 i'm 5:9,18,21 10:16	listed 7:22,25 litigation 4:20 4:21 6:4 9:11,12 9:13 11:15 llc 2:10,12 llp 2:5 3:3,10 love 4:9 lying 4:11	newly 8:23 noted 10:17 notice 5:8,8,9 6:24 november 1:16 2:11 10:7 13:25 ny 1:14 3:6 13:23
i	j	m	o
inadvertently 6:16 including 2:11 incurred 6:12 6:19 independent 8:23 indiscernible 5:24 9:18 individuals 9:3 information 7:10 10:23 inherited 7:14 insider 6:5 7:2 insiders 6:7 9:4 institutional 8:12 intents 9:14 interim 2:3,4 6:13,15,17,20 6:25 10:5,10 investigating 9:2 investigation 9:7	jointly 4:5 joseph 3:25 judge 1:23 4:2 8:10 judges 7:16 judgment 5:17 june 2:11 10:7	machine 7:16 majority 6:11 matter 1:5 7:24 7:25 10:21 matters 11:5 meditation 7:3 members 8:24 mi 3:19 midday 5:10 mineola 13:23 mn 3:13 moment 9:24 money 10:10 monies 10:17 morabito 3:24 motions 7:2 move 8:6 9:24 9:25 moved 11:2,6 mute 4:8,9 8:1 muted 4:9	o 1:21 4:1 13:1 oak 3:19 objections 10:3 october 6:9 offer 4:10 7:19 oiled 7:15 okay 8:4 10:2 old 13:21 omnibus 2:1 ones 7:6 ongoing 7:6 open 9:17 order 9:18 output 9:7 overview 8:9
	k	n	p
	kara 3:15 4:20 kernen 3:21 4:23,24 10:14 10:24 kevin 3:21 4:23 know 7:8,16,22 7:23 8:9,12,13 8:19,22	n 3:1 4:1 12:1 13:1 need 9:19 needs 11:11 negotiating 8:25 new 1:2 3:6 4:4 10:9	p 3:1,1 4:1 page 12:4 paid 10:18 particularly 7:10 parties 7:3 paul 3:3,13 4:15 9:6 payments 10:9 people 8:13 performed 10:8 period 2:5,11,12 10:6,7
	l		
	l 3:24 lampert 9:3 lane 1:22 4:3 law 10:22 leave 5:16 ledanski 2:25 13:3,8 left 5:21 8:13 legal 13:20 let's 9:25 light 8:10 line 8:19 12:4 lingering 11:17 liquidating 5:11 5:12		

[phone - thanksgiving]

Page 4

phone 8:8 plains 1:14 plan 5:25 9:10 pleasure 7:12 pm 1:17 point 7:10 8:18 9:13 portion 6:6 post 9:19,19 preference 5:25 7:9 preferences 6:1 11:15 preparing 6:15 present 3:23 5:5 8:5 pretty 7:15 prior 10:5 problem 4:11 proceedings 11:22 13:4 professional 2:3 2:4,8 5:4,17 9:5 prosecuting 6:1 provided 10:23 public 6:6,8,22 purposes 5:3 8:25 9:14 pursuant 10:10 10:12 pursue 9:7 pursuing 9:2	r r 1:21 3:1 4:1 13:1 real 2:10 10:19 realized 6:16 really 6:7 receiving 7:10 record 13:4 relates 10:5 rely 10:22 remain 6:8 represented 8:21 restructuring 4:16 5:5 8:23 9:6,14 revised 5:8 rifkind 3:3 right 4:17,22,25 5:7 7:8,22 8:7 9:21,21,25 10:13,15 11:6 11:18 risius 2:9,12 3:17 4:24 road 13:21 robert 3:8 role 8:17 room 1:13 ross 2:9,12 3:17 4:24 royal 3:19 rulings 12:3 run 8:11	sean 1:22 4:2 sears 1:7 4:5 second 3:18 6:13 see 11:20 seeking 10:9,11 sense 8:14 separate 6:2 services 10:19 10:20,25 set 6:18 10:18 settle 6:7 settlement 9:19 shareholder 6:4 6:6 11:15 shareholders 6:8,23 shl 1:3 shortly 6:9,25 signature 13:7 significant 7:4 slightly 7:17 small 7:1 smooth 7:18 smoothly 7:11 solutions 13:20 sonya 2:25 13:3 13:8 sort 8:12 sought 10:4 southern 1:2 4:3 speaking 8:15 special 2:5 specific 8:24 st 3:13 stand 8:9 start 5:19 state 4:3 states 1:1,12	status 5:19 7:22 7:24,25 stipulated 6:23 stout 2:9,12 3:17 4:22,24 5:4 9:5 9:17,24 10:1,3 10:13,17 12:6 stout's 8:5 10:8 street 1:13 3:18 stuff 7:20 subcommittee 4:16 5:5 8:23 9:6,14 submit 6:10 submitted 5:4 suite 3:12,18 13:22 summarized 10:20 summer 8:11 suspect 7:17 system 4:9 7:15 szydio 3:25
			t
			t 13:1,1 tackle 5:17 taken 6:12 technological 4:14 telephonically 3:23 tell 4:10 terms 7:20 10:23 thank 5:7 7:16 7:21 9:22 10:15 11:18,20 thanksgiving 11:20

[that's - á]

Page 5

that's 7:11,22 9:21 11:7,8,10 11:16 there's 7:23 things 7:1,11,17 8:9 think 4:8 5:9 7:9 7:11,13,15 8:9 8:12 9:19 11:2,3 11:5,8 third 2:4 6:15 6:17,17,19,25 7:5 thought 8:14 time 8:18,22 9:10 10:12 11:16 today 5:6 8:18 total 6:19 10:4 totaled 6:13 transcribed 2:25 transcript 13:4 true 13:4 trust 9:11,12 trustee 5:12,12 turn 5:11 two 5:23 8:14 9:1 10:5 11:16	v vast 6:11 veritext 13:20 view 7:10 vis 7:24,24	y year 6:15 years 9:12 york 1:2 3:6 4:4 you'll 11:16 you're 4:8,8,9 8:1
	w walk 5:12 want 8:11 wanted 7:24 11:2 wasn't 6:7 7:3 way 7:12 weeks 11:16 weil 8:19,21 9:19 11:8 weiss 3:3 4:15 9:6 west 3:18 we're 6:22,22 8:6 10:9,11 wharton 3:3 what's 5:13,20 5:21 8:12 white 1:14 wisdom 4:10 won't 7:6 woods 3:12 work 5:25 6:3 6:11 7:4,7,9 8:10 9:13 10:8 working 5:9 6:1 6:10 7:3,12 worries 11:10 wrapped 6:9,22	z zoom 8:8
		á á 7:24
u		
u.s. 1:23 ultimate 9:7 ultimately 9:1 united 1:1,12 4:3 unknown 1:25 update 8:20 9:18 11:19	x x 1:4,10 12:1	